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October 27, 2008

VIA ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

**Re: Developing a Unified Intercarrier Compensation Regime, CC Docket
No. 01-92; IP-Enabled Services, WC Docket No. 04-36**

EX PARTE

Dear Ms. Dortch:

In an October 2, 2008 *ex parte* letter I filed on behalf of NuVox in the above-referenced dockets, I wrote to highlight NuVox's concerns with the unitary terminating access rate of \$0.0007 per minute-of-use proposed by Verizon, AT&T and others.¹ On behalf of NuVox, I asserted that the Federal Communications Commission ("Commission" or "FCC") must reject the proposed \$0.0007 rate because it is neither legally sustainable nor competitively neutral.

In part of the October 2, 2008 *ex parte*, I stated that "Sprint's recent filing suggesting that the \$0.0007 rate is more generous than the weighted average of state commission ordered reciprocal compensation rates is fatally flawed." *October 2, 2008 Ex Parte Letter* at 5 (citing *Sprint Sept. 26 Ex Parte* at 1 and *Sprint Sept. 26 Ex Parte White Paper* at 1-3). While, NuVox stands by this assertion, NuVox has now determined that one of the reasons offered in support of it is not accurate. Thus, I am writing to retract and to correct the inaccurate assertion.

¹ *E.g.*, Verizon Proposal for Intercarrier Compensation Reform, attached to Letter from Susanne Guyer, Senior Vice President, Verizon, to Kevin Martin, Chairman, Federal Communications Commission, CC Docket No. 01-92 (filed Sept. 12, 2008) ("Verizon Plan").

KELLEY DRYE & WARREN LLP

Marlene H. Dortch
October 27, 2008
Page Two

As explained herein, a closer look at Sprint's analysis confirms that it is far more flawed than we had understood it to be.

The statement NuVox is retracting and correcting here is limited to the following sentence:

First, Sprint ignores the **tandem** switching component of reciprocal compensation, an omission which is unjustified for a number of reasons, not the least of which being that it is built into Verizon's proposed \$0.0007 rate.

This statement is hereby corrected to read as follows:

First, Sprint ignores the **end office** switching component of reciprocal compensation, an omission which is unjustified for a number of reasons, not the least of which being that it is built into Verizon's proposed \$0.0007 rate.

Thus, the error Sprint makes in its calculations is **more egregious** than we had initially perceived it to be. This is because the cost of end office switching is typically much greater than that of tandem switching. Based on the data provided by Sprint (which we use for this comparison, as it will accurately reflect the magnitude of Sprint's omission), the nationwide weighted average end office switching rate is \$0.00106 (the corresponding rate for tandem switching is only \$0.00058). Thus, Sprint omitted, on average, \$0.00106 from its calculation of terminating rates.

Sprint's omission was not inadvertent. Indeed, Sprint explains that in calculating the "Switching" component of state ordered UNE rates, it elected to use the tandem switching rates "because several states did not adopt per-minute rates for the switching element and because the switching element includes functions unnecessary for traffic termination." *Sprint Sept. 26 Ex Parte* at 1 and *Sprint Sept. 26 Ex Parte White Paper* at 3. While this disclosure does not refer to "end office" switching rates, it is clear from the context that this is the switching element to which Sprint was referring. That said, the rationale given by Sprint for omitting end office switching from its calculations is not even remotely compelling. First, nobody can seriously contend that end office switching functionality is not essential to call termination. Second, if Sprint had rate structure issues it wanted to address, it could have done so by isolating the issues and adopting reasonable assumptions to achieve the desired result. It also could have looked to the states' reciprocal compensation rates (rather than the UNE switching rates used in its study), which may have addressed the issues Sprint saw in an undisclosed number of end office switching rates.

KELLEY DRYE & WARREN LLP

Marlene H. Dortch
October 27, 2008
Page Three

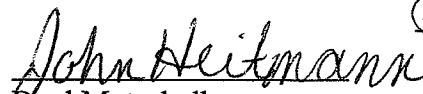

With this correction in place, NuVox reiterates and herein amplifies the other criticisms it provided with respect to Sprint's filing. As NuVox stated previously, Sprint's filing is not based on a reliable survey of state commission ordered TELRIC compliant reciprocal compensation rates. Sprint incorporated UNE switching and transport rather than reciprocal compensation rates in its analysis. In some states, the rates used by Sprint are outdated. In some states, Sprint ignored per-mile components of common transport rates and other relevant rate elements. Indeed, Sprint's study does not include per minute rates for end office and tandem shared ports. These rates/costs are part of the end office and tandem switch usage. While for some companies, these costs are implicitly built into switching rates, other companies have them as separate rate elements. In terms of nationwide weighted average impact, these two elements appear to account for a total of \$0.00025 omitted from Sprint's calculations. Finally, in all states, Sprint's method of choosing a single carrier per state, means that relevant rates for the large carriers in many states simply were ignored.

The total impact of these errors in Sprint's study is difficult to calculate precisely and without creating assumptions subject to debate. Our own attempt at a correction reveals a nationwide weighted average – based on corrected Sprint data and assuming that 75% of traffic is tandem routed – of \$0.0024. However, it is not our intention to place the emphasis on this corrected rate. The purpose of this filing is to provide a corrected and more detailed analysis regarding the flaws in Sprint's study and calculations.

In closing, NuVox respectfully reminds the Commission that a more reliable analysis of state ordered reciprocal compensation rates based upon more accurate information was provided in the Declaration of Michael Starkey submitted with NuVox's October 2, 2008 *ex parte* letter. Mr. Starkey's analysis shows that the weighted average of state reciprocal compensation rates is \$0.0027 – a rate that is about 4 times greater than the \$0.0007 rate.

This filing is being submitted electronically per the Commission's rules. Please place a copy of the filing in the records of the above-referenced proceedings and, if you have any concerns or questions, please direct them to the undersigned counsel.

Respectfully submitted,

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KELLEY DRYE & WARREN LLP

Marlene H. Dortch
October 27, 2008
Page Four

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